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Briefing Report to the Honorable Thad Cochran, U.S. Senate

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TAX ADMINISTRATION

Collecting Federal Debts by Offsetting Tax Refunds

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General Accounting Office
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February 9, 1987

The Honorable Thad Cochran
United States Senate

Dear Senator Cochran:

By letter dated February 6, 1986, you asked us to monitor and evaluate the Internal Revenue Service's (IRS) implementation of the Refund Offset Program authorized by the Deficit Reduction Act of 1984, and to periodically report on the program's progress. We briefed a member of your staff on IRS' implementation of the program and the program's success in collecting delinquent debts. Your staff subsequently asked us to summarize our work in a report.

The Refund Offset Program was authorized for a 2-year period pursuant to section 2653 of the Deficit Reduction Act of 1984. Under the act, IRS was given responsibility to collect delinquent debts owed the government by offsetting them against the tax refunds of those individuals who incurred the debts. The program, which began in calendar year 1986, primarily affected tax returns for tax year 1985. During its first year, the program involved certain delinquent debts owed to five federal agencies--the Department of Agriculture, the Department of Education, the Department of Housing and Urban Development, the Small Business Administration, and the Veterans Administration. These five agencies were selected for the Refund Offset Program by the Office of Management and Budget, and IRS.

As requested, the specific objectives of our review were to (1) describe the process by which tax refunds are offset against delinquent debts, (2) determine the program's impact in terms of money collected and the extent to which tax refunds were incorrectly offset, (3) determine the administration's plans for changing the program's operating procedures and expanding the number of participating agencies, and (4) provide information on congressional and IRS' concerns about the potential impact of the program on IRS' resources and on taxpayers' filing and withholding practices.

To accomplish these objectives we analyzed reports generated by IRS and the participating agencies; reviewed reimbursements made due to erroneous offsets; interviewed responsible

officials; and reviewed program procedures and related reports. The details concerning the scope and methodology of our work are presented in the appendix.

The detailed results of our work are also presented in the appendix and the following are some highlights:

-- In its first year of operation, the Refund Offset Program resulted in IRS offsetting nearly 275,000 delinquent accounts and collecting over $150 million in delinquent debts as of October 8, 1986. IRS' costs to collect this amount were about $1 million.

-- During the same time period, approximately $2.7 million in reimbursements were made to taxpayers by the participating agencies or IRS for the 3,963 delinquent accounts included in our review that were incorrectly offset. Incorrect offsets were due to (1) an account being erroneously referred to IRS for offset by the participating agencies or (2) a spouse of a debtor taxpayer having a tax refund offset by IRS while not being legally obligated for the debt. The reimbursements made up about 2 percent of the $150 million in delinquent debts collected by the program.

-- Due to the success of the Refund Offset Program in collecting delinquent debts and generating additional revenues, the administration plans to expand coverage of the program to include four new agencies. In addition, three of the original five agencies will increase the number of assistance programs from which delinquent accounts will be selected for offset.

-- While the participating agencies reimbursed IRS for its costs, the Refund Offset Program used IRS staff that would otherwise perform tax-related duties. IRS used about 90 staff years to offset refunds against delinquent debts in 1986. As the program's coverage expands, more IRS resources may be needed to operate the program.

As requested by your representatives, we did not obtain official comments on this report. However, officials of all participating agencies and IRS reviewed a draft of this report and generally agreed with its contents, and we considered their comments in preparing the final report. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this

report until 10 days from the date of issuance. At that time we will send copies to all participating agencies, congressional committees having an interest in the matters discussed, and other interested parties.

If you have questions regarding this briefing report, please call me on (202) 275-6407.

Sincerely yours,

Jennie S. Stathis

Jennie S. Stathis
Associate Director

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ABBREVIATIONS

IRS	Internal Revenue Service
OMB	Office of Management and Budget

THE INTERNAL REVENUE SERVICE'S

REFUND OFFSET PROGRAM

To reduce nontax delinquent debts owed the government and to generate additional revenues, Congress passed legislation requiring IRS to establish a Refund Offset Program. Section 2653 of the Deficit Reduction Act of 1984, P.L. 98-369, amended the Internal Revenue Code, 26 U.S.C. 6402, to authorize the Secretary of the Treasury to collect delinquent debts owed the government by offsetting the tax refunds payable after December 31, 1985, and before January 1, 1988. This 2-year period was established in order to examine (1) the extent to which tax refund offsets facilitate the collection of nontax debts and (2) the effect tax refund offsets have on taxpayers' filing practices.

Oversight responsibility for the Refund Offset Program, although not specified in the act, is shared by the Office of Management and Budget (OMB) and the Department of the Treasury. The Secretary of the Treasury delegated responsibility for program implementation to the Commissioner of Internal Revenue. IRS and OMB selected the five agencies that participated during the first year of the program. The five agencies and assistance programs included in the first year of the program were:

-- the Department of Agriculture's Farmers' Home Administration Loan Program,

-- the Department of Education's Guaranteed Student Loan, National Direct Student Loan, and the Federally Insured Loan Programs,

-- the Department of Housing and Urban Development's Title I Housing Loan Program,

-- the Small Business Administration's Disaster Home Loan Program, and

-- the Veterans Administration's Direct Loan and Guaranty Loan Programs.

HOW THE REFUND OFFSET PROCESS WORKS

The offset of an individual's tax refund to fully or partially cover a nontax delinquent debt owed the government

occurs during the processing of the individual's tax return. However, before referring a nontax debt to IRS for offset, the participating agency must certify that all other collection efforts were exhausted. Also, as established by interagency agreements, delinquent accounts must meet certain conditions before tax refund offsets occur. These basic conditions require the accounts to be (1) no more than 9 1/2 years old, (2) at least $25 or more in delinquent debts, (3) currently not collectible by some other means, and (4) owed by individuals who were given notice of an impending offset.

Once the participating agencies select delinquent accounts meeting these criteria, they send preliminary lists of such accounts to IRS from June through November. IRS first verifies that the accounts meet the established age and dollar limit criteria and also verifies addresses, social security numbers, and debtors' names on the lists. IRS then notifies each agency of any "unprocessable" accounts, such as those for which social security numbers provided by the agencies do not match those on IRS' records.

After the verification process is complete, and no later than the first of November, the participating agencies send notification letters--referred to as 60-day notices--to the delinquent debtors informing them of the government's intent to offset any tax refund that might be due against their debt. The 60-day notice provides the delinquent debtor time to pay or contest the debt before the tax refund is offset. If, during the 60-day period, the debtor provides sufficient evidence that the refund should not be offset, the agencies will remove the account from their preliminary lists. During January all remaining accounts on these lists are compiled by IRS into the debtor master file which is the sole source from which refunds are offset. Agencies may alter the master file by deleting accounts or reducing the debt amounts, but may not add accounts to the debtor master file during the year.

Beginning in January, offsets occur when the taxpayer's social security number from the tax return matches a social security number on the debtor master file and any refund due, up to the amount of the individual's delinquent debt, is withheld. Subsequently, IRS transfers the money collected to the Department of the Treasury, informs the taxpayer that his or her tax refund was offset, and refers the taxpayer to the participating agency for any recourse. The participating agencies are responsible for reimbursing taxpayers for erroneous offsets made due to

inaccurate information. IRS makes reimbursements when a debtor spouse and a nonobligated spouse, who has income, file a joint return and the refund is offset against the debt owed by the debtor spouse. At the end of the processing year, IRS retires the debtor master file and the process begins again. However, the debtor master file remains available for processing claims from prior years involving incorrect offsets or amended tax returns.

SCOPE AND METHODOLOGY

In order to determine the extent to which the program collected delinquent debts and reduced the number of delinquent accounts for the five agencies participating in the program, we identified and analyzed reports generated by both IRS and the five agencies. The reports provided data on the number and dollar amounts of the delinquent accounts sent to IRS by the five participating agencies. We then compared that data with IRS-developed information on the number and dollar amounts of delinquent accounts that were offset. This comparison provided us with insight into the extent to which refund offsets occurred in relation to the universe of delinquent accounts sent by the participating agencies to IRS. We did not verify the data contained in any of the reports because of time constraints.

To address the extent to which a taxpayer's refund was incorrectly offset and identify the reasons related to these offsets, we reviewed information on 3,963 of the 5,104 reimbursements made by the participating agencies and IRS. For these reimbursements, we obtained and reviewed documentation surrounding the circumstances that initiated the reimbursements to the extent it was available. The following are the details of the specific work performed.

-- We selected a nonrandom sample of 947 of the 2,088 reimbursements made by the Department of Education, the Department of Housing and Urban Development, and the Small Business Administration. We ensured that our nonrandom sample included all reimbursements made during the timeframe covered by our study, from May through October 1986. We reviewed all available documentation for each of the 947 reimbursements contained in the files of the three agencies.

-- We reviewed all 231 reimbursements made by the Department of Agriculture and the Veterans Administration. Because

the files for these agencies are located in their field offices, we were unable to physically examine the documentation surrounding the reimbursements. However, officials from these two agencies provided us with details on the reimbursements made.

-- For the 2,785 reimbursements made by IRS, we reviewed reports that provided the total number and dollar amounts of the reimbursements and compared this data to the number and amount of offsets.

For the purpose of identifying potential weaknesses that may have led to the incorrect offsets, we also reviewed and analyzed the policy and procedures for the operation of the Refund Offset Program and discussed program operations with agency officials.

To determine the planned expansion and other changes affecting the second year of the program's operations, we reviewed the planning documents of OMB and participating agencies that are to be added to the program. In addition, we reviewed the procedures of all participating agencies for implementing the program in the second year of its operation. We also attended an IRS workshop for agencies participating in the second year of the program. During the workshop, IRS officials described the refund offset process and the responsibilities of the participating agencies in adhering to the program's guidelines.

To gain insight into congressional and IRS concerns about the impact of the program on IRS' resources, we reviewed the legislative history of the Refund Offset Program and interviewed IRS officials. We also collected data on IRS' cost and staffing requirements and reviewed program manuals, related reports, and memoranda of understanding between IRS and each of the five participating agencies.

We conducted our work from May through October 1986 at the IRS National Office, the headquarters of the five participating agencies and OMB in Washington, D.C. Our work was performed in accordance with generally accepted government audit standards.

THE REFUND OFFSET PROGRAM COLLECTED MILLIONS OF DOLLARS

In its first year of operation, the Refund Offset Program has generated additional revenues through the collection of over $150 million in delinquent debts through October 8, 1986, as

shown in table 1. In addition, according to OMB officials, another $36 million was collected from the debtors in response to the participating agencies' 60-day notices of impending refund offsets.

Table 1:
Delinquent Accounts Offset and Collections Made by IRS for Tax Year 1985[a]

Agency	Delinquent accounts referred for offset		Delinquent accounts offset		Percent of delinquent accounts offset	
	number	amount	number	amount	number	amount
Agriculture	3,755	$ 11,265,000	1,869	$ 1,257,261	50	11
Education	531,960	1,080,955,299	240,049	128,789,866	45	12
Housing and Urban Development	16,190	93,161,848	7,545	5,626,258	47	6
Small Business Administration	19,964	68,416,295	8,465	6,410,985	42	9
Veterans Administration	32,806	31,413,909	16,855	8,310,598	51	26
Total	604,675	$1,285,212,351	274,783	$150,394,968	45	12

[a]Tax returns from tax years prior to 1985 could have been offset if amended or late returns were filed.

The five participating agencies sent about 605,000 delinquent accounts, amounting to about $1.3 billion, to IRS for offset against tax refunds for tax year 1985. About 45 percent of these accounts were offset and about 12 percent of the amount owed was collected. The remaining 55 percent of the delinquent accounts was not offset and 88 percent of the amount owed was not collected for various reasons. For example, in some cases, the taxpayer had not yet filed a tax return or was not due a tax refund.

In addition to generating additional revenues, the Refund Offset Program appears to be a cost-effective collection mechanism. For example, the average offset ranged from $757 for the Small Business Administration's debts to $493 for the Veterans Administration's debts for each account offset while each agency paid IRS $3.78 for costs incurred, for each delinquent account offset. This administrative cost to the agencies can be reduced by passing on these charges to the debtors as permitted by the Debt Collection Act of 1982 (section 11) and the Federal Claims Collection Standards (4 C.F.R. 102.13(d)). Of the five participating agencies, the Department of Education is the only agency passing on the administrative cost to the debtors. The remaining four agencies do not pass on the cost because agency officials believe that (1) the cost to adjust the loan balances on each of the accounts would not be economical or (2) the loan agreements prohibit passing on the additional cost.

TAXPAYERS HAVE BEEN REIMBURSED FOR INCORRECT OFFSETS

While the Refund Offset Program has contributed to collecting delinquent debts owed the government, some incorrect offsets have occurred. The incorrect offsets occurred due to (1) an account being erroneously referred to IRS for offset by the participating agencies or (2) a spouse of a debtor taxpayer having a tax refund offset by IRS while not being legally obligated for the debt. Relatively few incorrect offsets were made--5,104 of the 274,783 offsets or about 2 percent. Furthermore, the 3,963 incorrectly offset accounts that we reviewed amounted to approximately $2.7 million, or about 2 percent of the $150 million in delinquent debts collected by the program as shown collectively in tables 2 and 3.

Reimbursements by participating agencies

The participating agencies are responsible for reimbursing taxpayers for the amount of the tax refund that was incorrectly withheld when the offsets were erroneous due to inaccurate information provided to IRS by the agencies. Such erroneous offsets include those made (1) against taxpayers in a bankrupt status, (2) against the wrong taxpayers, and (3) for more than the delinquent amounts owed. As shown in table 2, erroneous offsets caused by the participating agencies were less than 1 percent of the offset refunds involved (reimbursements were

issued on 2,319 accounts out of a total of 274,783 delinquent accounts subject to an offset).

Table 2:
Analysis of Reimbursements Made by Participating Agencies for Erroneous Offsets During Tax Year 1985

Agency	Total accounts offset	Total accounts reimbursed[a]	Number reimbursed accounts reviewed	Amount reimbursed for accounts reviewed	Average reimbursement per account reviewed
Agriculture	1,869	96	96[b]	$ 78,473	$ 817
Education	240,049	1,341	583	297,439	510
Housing and Urban Development	7,545	321	189	137,764	729
Small Business Administration	8,465	426	175	178,179	1,018
Veterans Administration	16,855	135	135[b]	77,732	576
Total	274,783	2,319	1,178	$769,587	$ 653

[a]Total accounts reimbursed as of August 1986.

[b]Information on the reimbursements made by the Department of Agriculture and the Veterans Administration was provided to us in summary format by officials from these agencies. We did not verify the data because the case files are located in these agencies' field offices.

Our analysis of why the participating agencies reimbursed debtor taxpayers for erroneously made offsets is based on a nonrandom sample of about 45 percent of the reimbursements made by the Department of Education, the Department of Housing and Urban Development, and the Small Business Administration. For the Department of Agriculture and the Veterans Administration, we reviewed information provided by agency officials for the entire universe of reimbursements made by these agencies. We were not always able to determine the circumstances surrounding an erroneous offset because the reasons were not listed on the agencies' headquarters' or central records. Despite these

limitations, we were able to determine or obtain details on the reasons why incorrect offsets were issued for 861 of the 1,178 reimbursements we analyzed.

For these 861 reimbursements, two reasons accounted for 65 percent of the reimbursements issued: (1) the taxpayer had filed for bankruptcy or (2) the amount offset exceeded the amount of the delinquent debt certified by the agencies. Bankruptcy was cited as the reason for 347 (40 percent) of the 861 reimbursements. For 216 (25 percent) of the 861 reimbursements, the amount offset was more than the amount of the delinquent debt certified. For the remaining 298 reimbursements, there were several reasons which included taxpayer hardship or disability, the wrong taxpayer, previously issued judgments, or previously made compromise agreements that excused the delinquent debt.

Participating agency officials stated that the erroneous offsets which occurred in the first year were primarily attributable to inadequacies in the agencies' information systems used to track accounts. According to agency officials, the systems did not generally provide complete information on debtors' status such as bankruptcy, recent payments, or agreements which lowered the amount of debt. Participating agency officials told us that they are creating new, or enhancing existing, systems to keep better track of a debtor's status.

IRS reimbursements to nonobligated spouses

In addition to reimbursements made by the participating agencies due to erroneous offsets, IRS has reimbursed offsets made against refunds of spouses of debtors who were not legally obligated for the debt. Such offsets occur when a debtor spouse and a nonobligated spouse, who has income, file a joint return and the refund is offset against the debt owed by the debtor spouse. After this occurs, the nonobligated spouse can file an amended return and receive any reimbursement due based on his/her income.

As shown in table 3, IRS reimbursements to nonobligated spouses represented about 1 percent of the delinquent accounts offset and the dollars collected.

Table 3:
IRS Reimbursements Made to Nonobligated Spouses for Offsets During Tax Year 1985

Agency	Total offsets accounts	Total offsets amount	Total reimbursements[a] accounts	Total reimbursements[a] amount	Percent of total offsets accounts	Percent of total offsets amount
Agriculture	1,869	$ 1,257,261	11	$ 12,998	.6	1.0
Education	240,049	128,789,866	2,507	1,756,040	1.0	1.4
Housing and Urban Development	7,545	5,626,258	57	42,303	.8	.8
Small Business Administration	8,465	6,410,985	30	27,916	.4	.4
Veterans Administration	16,855	8,310,598	180	100,932	1.1	1.2
Total	274,783	$150,394,968	2,785	$1,940,189	1.0	1.3

[a]Total reimbursements as of October 1986.

While reimbursements to nonobligated spouses during the first year of the test program were minimal, a potential problem exists because the process does not provide a means to verify whether a debtor's spouse is also obligated for the debt. Therefore, obligated spouses (co-debtors) could receive reimbursements by filing amended returns. It is not known how many of the 2,785 reimbursements made were to co-debtors.

If the Refund Offset Program is expanded and includes more co-debtor loans, such as the Small Business Administration's Disaster Home Loans and Housing and Urban Development's Title I Home Loans, this potential problem could become significant. Therefore, procedures may be needed in the future to determine whether the spouse is also responsible for the debt. Such procedures would allow IRS to identify nonobligated spouses before an offset occurs, thus eliminating the need for reimbursements.

PLANS FOR THE REFUND OFFSET PROGRAM'S SECOND YEAR

Due to the revenues generated by the Refund Offset Program during its first year of operation, the administration will include four new agencies in the program during the second year. These are the Department of Defense, the Department of Health and Human Services, the Department of Justice, and the Department of the Treasury. In addition, three of the five agencies which participated in the Refund Offset Program during the first year are increasing the number of their assistance programs from which they will select delinquent accounts to send to IRS for offset.

As of October 1986, officials from the participating agencies for the offset program's second year had identified over 2 million accounts with more than $3 billion in delinquent debts that would be included during the second year. Table 4 lists these agencies and the number and amounts of the delinquent accounts initially identified for referral to IRS for tax refund offset during calendar year 1987.

Table 4:
Agencies to Participate
in the Second Year of
the Refund Offset Program
(as of October 27, 1986)

Agency	Proposed number of delinquent accounts for referral	Proposed amount of delinquent accounts for referral
Agriculture	10,630	$ 15,859,000
Defense	81,130	82,521,000
Education	1,250,000	2,000,000,000
Health and Human Services	1,282	33,248,000
Housing and Urban Development	42,500	242,500,000
Justice	10,000	10,000,000
Small Business Administration	25,500	71,000,000
Treasury	1,300	1,000,000
Veterans Administration	588,000	666,000,000
Total	2,010,342	$3,122,128,000

IRS has also made several procedural changes for the program's second year to minimize errors and improve program operations. For example, the new procedures manual and interagency agreements indicate that (1) the permissible age of debts certified for refund offset has been increased from 9 to 9 1/2 years; (2) agencies are required to obtain and use IRS addresses during the notification process, and (3) the agencies are required to have toll-free telephone numbers. These changes were made, respectively, to recover more delinquent debts, reduce the number of undeliverable 60-day notices, and decrease the number of calls to IRS from the debtor taxpayers regarding the offsets.

IMPACT OF THE REFUND OFFSET PROGRAM ON IRS' RESOURCES AND TAXPAYERS' FILING AND WITHHOLDING PRACTICES

Although the Refund Offset Program increased revenues and should continue to do so with its expansion next year, there is still concern about the impact of the program on IRS' resources in regards to its ability to administer the tax laws. There is also concern over the filing and withholding practices of those taxpayers whose refunds were offset.

Over the years, IRS Commissioners have made statements about the possible adverse effects of refund offset on IRS' primary mission of administering tax laws. In commenting on a GAO report issued in 1979, former Commissioner Kurtz wrote "Our concerns that using the Service to collect what would be essentially small nontax debts could impair our primary mission."[1] During a congressional hearing in 1985, former Commissioner Egger stated "The Service has serious concerns about the refund offset mechanism's potentially adverse impact on the tax system."[2] While IRS is reimbursed by the participating agencies for its costs, the Refund Offset Program uses IRS staff that would otherwise perform tax-related duties. As shown in table 5, about 90 staff years were required to offset tax refunds against delinquent debts in 1986. Although not many resources are being expended at this time, as the program's coverage expands, more IRS resources may be needed to operate the program.

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[1]The Government Can Collect Many Delinquent Debts By Keeping Federal Tax Refunds as Offsets (FGMSD-79-19, Mar. 9, 1979).

[2]Hearings before the Subcommittee on Oversight, of the House Committee on Ways and Means, 99th Cong., 1st Sess. (1985) page 7.

Table 5:
Estimated IRS Staffing
Requirements for Calendar Year 1986

IRS function	Total staff years
Chief counsel	10
Computer services	10
Finance division	2
National computer center	2
Operations branch	3
Public affairs	1
Reports processing and accounting	7
Service centers	28
Taxpayer service	27
Total	90[a]

[a]These resources were used to offset tax refunds for the Refund Offset Program and to collect delinquent child and spousal support payments pursuant to the Omnibus Budget Reconciliation Act of 1981.

IRS is also concerned about taxpayers' reactions following an offset. For example, taxpayers whose refunds have been offset could adjust their filing practices in order to avoid future offsets. Specifically, the taxpayers could stop filing tax returns or change their withholdings such that they receive little or no tax refund or they owe taxes. Thus, the Refund Offset Program could create a tax collection problem for IRS that did not previously exist. However, it is too early to make such a determination. In order to evaluate taxpayers' reactions to the offset program, at least 2 years of experience are needed. Once sufficient information is available, IRS plans to evaluate

taxpayers' reactions in terms of changes in their filing and withholding practices.

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